

REMARKS

Applicant respectfully requests reconsideration of this application as amended. Claims 104, 109, 114, 116, 121, 125, 130 and 135 have been amended. Claims 1-103 have previously been cancelled without prejudice. No new claims have been added. Therefore, claims 104-139 are presented for examination.

Admissions

In the remarks below Applicants have not endeavored to traverse each and every point whether of fact, law, or opinion raised by the Examiner. This is true of this response and of previous responses. It will probably also be true of future responses, if there be any. Applicants neither concede nor admit any of these uncontested positions and assertions of the Examiner. Instead, Applicants ignore these matters in an effort to minimize the consumption of Office resources that Applicants otherwise might demand. Applicants would also like to focus the attention and efforts of the examination on matters that are likely to resolve the patentability of the present application with less Examiner effort.

Claim Objections

Claims 104, 109, 114, 121, 125, 130 and 135 are objected to for lack of antecedent basis. The claims are amended to refer to “the content corresponding to the content descriptors” and similar expressions. The content descriptors find antecedent in the immediately preceding phrase. The content finds antecedent implied in the recitation of content descriptors. A content descriptor implies that there is content to describe.

35 U.S.C. § 101 Rejection

Claims 114 and 134 are rejected under 35 U.S.C. 101, as directed to non-statutory subject matter. The claims have been amended to recite that the instructions are stored, therefore they are not a signal per se.

35 U.S.C. § 102 Rejection

Payton

The Examiner has rejected claims 104-115 and 117-138 under 35 U.S.C. 102(b) as being anticipated by Payton U.S. Patent No. 5,790,935 (“Payton”). Taking the Examiner’s characterization as accurate, it remains that in Payton, there is a list maintained by the central distribution server. The local server receives list updates and downloads new items based on the latest list update. The only information received from the subscriber is described on Col. 6, lines 36-50. The local server can report viewing habits, ratings after seeing a show, and profile demographics. The subscriber can request the download of particular shows, but it is not clear whether this is used to update the list. In any event this would be essentially the same as viewing history.

In, e.g., Claim 104, content descriptors including a portion of the content are downloaded and then demand data is sent back in response to the content descriptors.

The Examiner has stated that the portion is the same as the full content. Payton only describes providing full content. Claim 104 recites “a portion of the content” and “full content.” While this should be interpreted so that “a portion” has a different meaning from “the full,” the claims are amended to eliminate any possible ambiguity.

Thus, Payton represents a conventional system in which viewing history is monitored and then programs are selected based on that history. As a result, Payton is

careful to conserve broadcast resources. Lists from multiple subscribers are coordinated so that program broadcasts can be shared and programs are sent during off-peak hours when possible. In contrast, in Claim 104, a portion of the full content is sent first. Portions are then sent again. Only after the second set of feedback is obtained is the full content sent.

Claim 104 further recites, “receiving demand data from the client in response to the content descriptors,” and “receiving further demand data from the client in response to the further content descriptors.”

In Payton, the only source of feedback is viewing history and a an optional rating that the viewer can provide after watching the show. However, in Claim 104, the demand data is in response to the content descriptors which do not include the whole show. This is a fundamentally different way of developing content for the viewer. Instead of watching the show, the viewer interacts with the content which has only portions. The demand data is sent back and then in the multi-stage approach, the full content is eventually provided. Payton does not develop data in this way.

The Examiner cites Payton as teaching that each iteration of recommended and broadcast items is based on the previous iterations. In the case of Payton, however, a show is downloaded and it is either watched or not. This behavioral data is sent back for the next iteration. In Claim 104, the show is not provided. The user interacts with the descriptors and cannot yet watch the show. Only after that is the show downloaded.

For these reasons Claim 104 is believed to be allowable over Payton. The other claims contain similar recitations and are believed to be allowable therefore, *inter alia*.

35 U.S.C. § 103 Rejection

Payton

The Examiner has rejected claim 116 under 35 U.S.C. 103(a) as being obvious over Payton. This rejection is believed to be traversed on the grounds provided above as well as for the specific recitations set forth therein. The Examiner taking of Official Notice and the conclusions drawn therefrom are not admitted by Applicant either previously or now. First, a satellite broadcast is not a computer network. Second the claimed staggering is not a common approach. Third, the basis for the staggering is not common. Other grounds to object to this rejection exist, however, Applicants prefer to focus the Examiner's attention on the reasoning provided above with respect to Claim 104.

Conclusion

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Request for an Extension of Time

Applicant respectfully petitions for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

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